

NEWS from



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SUPERVISOR POSTMUS' STATEMENT REGARDING COUNTY'S DECISION TO APPEAL BLM GRAZING DECISION

SAN BERNARDINO—First District San Bernardino County Supervisor Bill Postmus today made the following statement regarding the Board of Supervisors' unanimous vote today to intervene in an appeal of a recent Decision Record seeking to limit grazing within the California Desert Conservation Area:

"Today I was joined by my colleagues on the San Bernardino County Board of Supervisors in voting to intervene as a legal party to an administrative appeal of the recent Decision Record of the Bureau of Land Management (BLM)."

"The appeal by High Desert cattlemen, set for hearing on July 23 in Barstow, is in response to a May 15 Decision Record ("BLM Decision") issued by the BLM attempting to modify grazing use on certain grazing allotments. The BLM Decision, if it stands, would result in a temporary removal of livestock grazing on 11 cattle allotments covering 498,665 acres of both critical and non-critical desert tortoise habitat. It also would eliminate grazing on an additional 12 allotments covering 415,131 acres."

"While County Counsel and Staff are still reviewing the decision documents, I anticipate the County will assert that the BLM's Decision, to limit and in some cases eliminate grazing in the County, is not based on adequate scientific evidence nor required by the Endangered Species Act. Further, the restrictions on grazing may actually cause an adverse impact upon the environment."

"Additionally, the County anticipates that it will be adversely affected as it would lose possessory interest tax revenue as a result of the decision. Additionally, we expect the prohibition against grazing to have a serious financial impact upon the ranchers' business operations with resultant financial impacts upon the County's economy. The County also anticipates raising possible statutory violations related to the environmental review and administrative process committed by the BLM in making its final decisions."

"I believe the evidence supporting the BLM Decision is inadequate, as the administrative appeal will prove. I believe further that the BLM erred by not considering other alternatives and management strategies, and chose instead to attempt to eliminate a valuable partnership which formerly existed between the public land administrators and the private landowners and stewards who actually live upon the land and care for its resources. To cancel both spring and fall grazing, and offer only the alternative of using other areas within the allotments in effect would likely destroy these ranching operations, and, I think, would be characterized as poor range management."

"The Decision Record destroys the last vestige of what used to be a partnership with the Federal government. While the document claims to be only temporary, pending completion of another consultation, I believe that restoration of grazing rights will face further litigation and an uphill fight. The ranching interests have finite resources with which to undertake this battle to preserve their livelihoods and considerable financial investment."

"The BLM's decision ignores the loss of value to base property and the ranchers themselves, potential losses to lenders, and the loss to the County of property tax revenue from reduced valuations and other revenues due to decreased economic activity. Therefore it is appropriate for the County Board of Supervisors to seek to protect the interests of the County and its citizens by initiating this action."

"I will continue to do all that I can to protect the rights of San Bernardino County citizens to prudently use our public and private lands in a way that is healthy for the environment and our economy."

Background:

The BLM Decision, implemented through 16 Final Grazing Decisions, will be effective until either 1) receipt by BLM of the biological opinion on the effects of the CDCA Plan on the Mojave population of the desert tortoise and (a) implementation of any applicable terms and conditions, reasonable and prudent alternatives, and/or reasonable and prudent measures requiring immediate implementation and (b) the signing of the record of decision (ROD) for the Northern and Eastern Colorado Desert (NECO) and Northern and Eastern Mojave Desert (NEMO) bio-regional plan amendments, or 2) January 31, 2002, whichever is later. Requirement 1(b) above concerning completion of the NECO and NEMO plans applies only to those allotments covered by those two plans.

The BLM Decision was prompted by a lawsuit filed by the Center for Biological Diversity, et al. (Plaintiffs) in the U.S. District Court; Northern District of California (Court) against the BLM seeking to immediately prohibit all grazing activities that may affect listed species. In the lawsuit, the Plaintiffs alleged the BLM was in violation of Section 7 of the Endangered Species Act by failing to enter into formal consultation with the U.S. Fish and Wildlife

Service (FWS) on the effects of adoption of the CDCA Plan upon threatened and endangered species. On August 25, 2000, the BLM acknowledged through a Court stipulation that activities authorized, permitted, or allowed under CDCA Plan may adversely affect threatened and endangered species, and that the BLM was required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

Although the BLM received biological opinions on selected activities, including grazing, consultation on the overall CDCA Plan has not been completed and the completion date is unknown. The BLM contends that absent consultation on the entire CDCA Plan, the impacts of individual activities such as grazing, when added together with the impacts of other activities in the desert, are not known and must be analyzed. The BLM has taken the position that it was necessary to enter into various stipulations (Stipulations) with the Plaintiffs to avoid litigation of the Plaintiffs' request for injunctive relief and the threat of an injunction prohibiting all activities authorized under the CDCA Plan. The BLM further contends that the Stipulations allow the BLM to continue appropriate levels of activity throughout the CDCA planning area during the lengthy consultation process while providing protection to the desert tortoise and other listed species in the short term. Although the Stipulations provide for only temporary prohibition of certain cattle grazing, the impacted ranchers contend that the provisions will result in the destruction of their business operations.

The County appeared in the lawsuit as an amicus (friend of the court) and filed objections to two of the Stipulations. The Court approved the Stipulations, however, the BLM was not relieved of its duty to follow the appropriate administrative regulations and environmental review in making its final decision with respect to cattle grazing allotments.

The May 15, 2001 BLM Decision for the temporary removal of livestock grazing results from this administrative process. The ranchers as well as other interested parties can appeal or intervene in the appeal of the BLM Decision. A hearing has been scheduled for July 23, 2001 before an administrative law judge in Barstow, California, and is anticipated to last approximately two weeks.